

MANDENI LOCAL MUNICIPALITY: TARIFF BY-LAW, 2016



Adopted by Council on the:

Promulgated on:

PROPERTY RATES BY-LAW, 2016

To provide for the levying and implementation of a tariff policy; for the general power to levy and recover fees, charges and tariffs and for matters incidental thereto.

PREAMBLE

WHEREAS section 229(1) of the Constitution authorises a municipality to impose-

- (a) rates on property and surcharges on fees for services provided by or on behalf of a municipality; and
- (b) if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls;

WHEREAS in terms of Section 75A of the Municipal Systems Act, a municipality may-

- (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
- (b) recover collection charges and interest on any outstanding amount;

WHEREAS in terms of Section 74(1) of the Municipal Systems Act, a municipal council must adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and which complies with the provisions of the Municipal Systems Act, the Municipal Finance Management Act and any other applicable legislation;

WHEREAS in terms of Section 75 of the Municipal Systems Act, a municipal council must adopt By-laws to give effect to the implementation and enforcement of its tariff policy;

AND WHEREAS the By-laws adopted in terms of section 75 of the Municipal Systems Act may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

NOW THEREFORE the Municipal Council of the Mandeni Local Municipality, acting in terms of section 156 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1 DEFINITIONS

Definitions

1. In these bylaws, unless the context indicates otherwise –
“**Beneficiary**” or “**beneficiaries**” means the –

- (a) The owner of the occupiers of property, where the owner occupies the property with other occupiers; or
- (b) The occupiers of property, where the owner does not occupy the property,

Where the combined income level of the owner and/or occupiers does not exceed the level determined by the Council by resolution from time to time;

“Beneficiary property” a residential property owned or occupied by a beneficiary or beneficiaries;

“Council” means the Council of the Mandeni Municipality;

“Consumption” means the ordinary use of municipal service for domestic or household service;

“Due date” means, in the absence of any express agreement to the contrary, then date determined from time to time by the Council as the last date on which any account for municipality services rendered shall be paid;

“Free basic water allocation” means the maximum amount of water which will be provided free of charge to indigent person as reflected in the Council’s tariffs from time to time;

“Free basic services” means free basic water, within the free basic water allocation, free refuse removal and free sewage disposal;

“Income level” means the total, combined income of –

- (a) The owner and all occupiers of a beneficiary property, where the owner occupies the property within the occupiers; or
- (b) All the occupiers of a beneficiary property, where the owner does not occupy the property,

Regardless of the source of such income;

“Life line service” means refuse removal and sewerage disposal service provided at life line tariff determined by Council by resolution from time to time;

“MEC for local government” means the MEC responsible for local government in KwaZulu-Natal;

“Municipal council” or “council” means the Mandeni municipal council, a municipal council referred to in section 157(1) of the Constitution;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“Municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

“Municipal service” means domestic electricity, water, sanitation and refuse removal service provided by the Council;

“Municipal value” means the total combined value of land and buildings on the beneficiary property, as reflected in the municipal valuation roll;

“Occupier” means any person in actual occupation of beneficiary property without regard to the title under which he or she occupies, if any;

“Owner” means the person in whose name legal title in the beneficiary property is vested;

"Tariff" means fees and charges levied by the municipality in respect of any function or service provided by the municipality to the local community, and includes a surcharge on such tariff but excludes the levying of rates by the Municipality in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

Interpretation of the By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 2

APPLICATION

Adoption and Implementation of Tariff Policy

3. (1) The municipality must adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and which complies with the provisions of the Municipal Systems Act, the Municipal Finance Management Act and any other applicable legislation.

(2) The tariff policy adopted in terms of subsection (1) must be reviewed annually by the municipality.

(3) The municipality shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

Tariff Policy

4. (1) The municipality's tariff policy applies to all tariffs imposed by the municipality.

(2) The tariff policy must reflect the principles referred to in the Municipal Systems Act, namely that-

(a) users of municipal services should be treated equitably in the application of tariffs;

- (b) the amount individual users pay for municipal services should generally be in proportion to their use of that service;
- (c) poor households must have access to at least basic services through-
 - (i) tariffs that cover only operating and maintenance costs;
 - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service;
 - (iii) any other direct or indirect method of subsidisation of tariffs for poor households;
- (d) tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;
- (e) tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidisation from sources other than the service concerned;
- (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
- (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
- (h) the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged; and
 - (i) the extent of subsidisation of tariffs for poor households and other categories of users should be fully disclosed.

(3) The municipality's tariff policy must-

- (a) specify the manner in which the principles referred to in subsection (2) are to be implemented;
- (b) specify the basis of differentiation, if any, between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination; and
- (c) include any further enforcement mechanisms the municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection By-law and Policy.

General Power to Levy and Recover Fees, Charges and Tariffs

5 (1) The municipality has the power to-

- (a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
- (b) recover collection charges and interest on any outstanding amount.

(2) Fees, charges and tariffs referred to in subsection (1) are levied by resolution passed by the municipal council with a supporting vote of a majority of its members.

(3) After a resolution contemplated in terms of subsection (2) has been passed, the municipal manager must, without delay-

- (a) conspicuously display a copy of the resolution for a period of at least 30 days at the Municipal Offices and at such other places within the municipality to which the public has access as the municipal manager may determine;
- (b) publish in a newspaper of general circulation in the municipality a notice stating-
 - (i) that a resolution as contemplated in subsection (3) has been passed by the council;
 - (ii) that a copy of the resolution is available for public inspection during office hours at the City Hall and at the other places specified in the notice; and
 - (iii) the date on which the determination will come into operation; and
- (c) seek to convey the information referred to in paragraph (b) to the local community by means of radio broadcasts covering the area of the municipality.

(4) The municipal manager must forthwith send a copy of the notice referred to in subsection (3)(b) to the MEC for local government concerned.

Enforcement of Tariff Policy

6. (1) The municipality's tariff policy shall be enforced through-

- (a) its Credit Control and Debt Collection By-law and Policy; and
- (b) any other enforcement mechanism stipulated in the Tariff Policy.

CHAPTER 3

FREE BASIC SERVICE

Qualification

7. The owner and/or occupiers of beneficiary property shall automatically qualify for free basic service where the municipality values of land and building on such property id equal to, or less than, the value determined by resolution of the Council from time to time, as reflected in the Council's tariffs.

Excess consumption

8. Where water consumption on the beneficiary property exceeds the free basic water allocation, such excessive consumption will be billed at the normal tariff as determined by the Council from time to time.

Voluntary restriction

9. (1) A beneficiary may request the Council to install a variable flow-restricting device to water supply to the beneficiary property in order to ensure that consumption does not exceed the free basic water allocation.

(2) There shall be no charge for the installation of a variable flow-restricting device in term of subsection (1)

Non- payment

10. In the event that a beneficiary fails to pay any account by due date, not understanding that the beneficiary may qualify for free basic service, the Council may –
- (1) restrict the supply water to the beneficiary property;
 - (2) disconnect the electricity supply to the beneficiary property; or
 - (3) take any other actions permitted in terms of the Council's credit control by laws.

CHAPTER 4

LIFE LINE SERVICE

Application

11. **(1)** The owner and/or occupiers of residential property who do not qualify as beneficiaries, but whose level of income is less than or equal to the amount determined by the Council as qualifying for life line service, may apply in writing to the Council for life line service.
- (2)** Where life line services are granted, such grant shall be valid for one year.

Non- payment

12. In the event that an owner or occupier fails to pay any account by due date, not understanding that the owner or occupier may have been granted life line services, the Council may –
- (1) restrict the supply of water to the property;
 - (2) disconnect the electricity supply to the property; or
 - (3) take any other action permitted in terms of the Council's credit control by-laws.

CHAPTER 5

GENERAL MATTERS

Appeals

13. **(1)** A person whose right are affected by the decision taken by any authorised official under these by-law, may appeal against the decision by giving written notice of the appeal and reason to the municipal manager within 21 days of the date of the notification of the decision.
- (2)** The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4)

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any right that may have occurred as result of the decision.

(4) When the appeal is against a decision taken by-

- (a) A staff member other than the municipal manager, the municipal manager is the appeal authority; or
- (b) The municipal manager, the executive mayor is the appeal authority.

(5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a responsible period.

Delegations

14. (1) Subject to the Constitution and applicable national and provincial laws, any -
- (a) power, excluding a power referred to in section 160(2) of the Constitution;
 - (b) function; or
 - (c) duty

conferred, in terms of this By-law, upon the Council, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of sub-section (1) must be effected in accordance with the system of delegation adopted by the Council in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act."

(3) Any delegation contemplated in this section must be recorded in the System of Delegations, which must contain information on the –

- (a) entity or person issuing the delegation or sub-delegation;
- (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Repeal of existing By-laws

15. The Council's existing By-laws are hereby repealed.

Short title and commencement

16. This By-law is called the Mandeni Municipality: Tariff By-law, 2016, and takes effect on the date of the publication thereof in the Provincial Gazette or as otherwise indicated in the notice thereto.
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